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NOTICE OF PUBLIC HEARING

Pursuant to the authority of M.G.L. c. 118E and in accordance with M.G.L. c. 30A, a public hearing will be held on Friday, April 21, 2017 at 1:30 p.m. in the First Floor Conference Room, 100 Hancock Street, Quincy, MA relative to the emergency adoption of:

101 CMR 331.00: PRESCRIBED DRUGS

The following describes proposed changes to MassHealth payments for prescribed drugs pursuant to 101 CMR 331.00. The amendments to 101 CMR 331.00 are being proposed to comply with new federal rules governing Medicaid payments for covered outpatient drugs. Most significantly, the rules generally require state Medicaid programs 1) to pay pharmacies the "actual acquisition cost" (AAC) of drug ingredients; and 2) to pay pharmacies a "professional dispensing fee" for dispensing drugs. The rules also specify how states may develop these methodologies.

Description of the Proposed Amendments

Implementing Actual Acquisition Cost (AAC): The proposed amendments define AAC as the lowest price for the drug available from a survey of pharmacy costs, or, if no survey price is available, the drug's wholesale acquisition cost (WAC). For many drugs, the AAC will be the drug's National Average Drug Acquisition Cost (NADAC). In the proposed amendments, AAC replaces estimated acquisition cost (EAC) in the methodologies for determining payments for drugs not obtained through the 340B drug pricing program.

Updating Massachusetts Maximum Allowable Cost: The proposed amendments also update the definition of Massachusetts Maximum Allowable Cost, which is used in the methodologies for determining payments for certain drugs. The revised definition now incorporates an AAC-based methodology.

Updating Payment Methodology for Blood Clotting Factor: The proposed amendments update the methodology for determining payment for blood clotting factor. Specifically, payment for blood clotting factor not obtained through the 340B drug pricing program will be updated to include 106% of the average sales price in the methodology, replacing the Medicare Part B rate. Payment for blood clotting factor obtained through the 340B drug pricing program will be updated to use the 340B ceiling price in the methodology, replacing the 340B AAC.

Updating Dispensing Fees: The proposed amendments update dispensing fees to reflect the findings of a cost of dispensing survey conducted on behalf of the Commonwealth. The proposed amendments increase to $10.02 the dispensing fee for all non-compounded, non-340B drugs (increased from $3.00 in the current regulation) and for all non-compounded 340B drugs other than blood clotting factor (increased from $10.00 in the current regulation). The proposed amendments also update the dispensing fee for compounded drugs to $10.02 plus one of four additional amounts ranging from $7.50 to $30.00, depending on the compounding process involved in dispensing the drug. The current regulation, by contrast, sets the compounded drug dispensing fee at $3.00 plus either $1.00 or $2.00 depending on the compounding process involved. The proposed amendments also update the dispensing fee for blood clotting factor obtained through the 340B drug pricing program to 2.75 cents per unit from 9 cents per unit.

Other: The proposed amendments also include a number of technical corrections and updates to reduce ambiguity, enhance consistency, and improve readability.

The regulation went into effect as an emergency on March 31, 2017, effective for dates of service beginning April 1, 2017. EOHHS expects that the proposed amendments will increase annual aggregate MassHealth expenditures by approximately $6.2 million, compared to projected expenditures under the current version of 101 CMR 331.00. There is no fiscal impact on cities and towns.

Individuals who notify EOHHS of their intent to testify at the hearing will be afforded an earlier opportunity to speak. Speakers may notify EOHHS of their intention to testify at the hearing by registering online at www.mass.gov/eohhs/gov/laws-regs/hhs/public-hearings.html. Individuals may also submit written testimony by e-mailing ehs-regulations@state.ma.us. Please submit electronic testimony as an attached Word document or as text within the body of the e-mail with the name of the regulation in the subject line. All submissions must include the sender's full name, mailing address, and organization or affiliation, if any. Individuals who are unable to submit testimony by e-mail should mail written testimony to EOHHS, c/o D. Briggs, 100 Hancock Street, 6th Floor, Quincy, MA 02171. Written testimony must be submitted by 5:00 p.m. on April 21, 2017.

All persons desiring to review the emergency regulation may go to www.mass.gov/eohhs/gov/laws-regs/hhs/public-hearings.html or request a copy in writing or in person from MassHealth Publications, 100 Hancock Street, 6th Floor, Quincy, MA 02171.

Special accommodation requests may be directed to the Disability Accommodations Ombudsman by e-mail at ADAAccommodations@state.ma.us or by phone at 617-847-3468 (TTY: 617-847-3788 for people who are deaf, hard of hearing, or speech disabled). Please allow two weeks to schedule sign language interpreters.

EOHHS may adopt a final, revised version of the emergency regulation taking into account relevant comments and any other practical alternatives that come to its attention.

In case of inclement weather or other emergency, hearing cancellation announcements will be posted on the MassHealth website at www.mass.gov/masshealth.

March 31, 2017